

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2007

CORAM

THE HONOURABLE MR.JUSTICE ELIPE DHARMA RAO
AND
THE HONOURABLE MR.JUSTICE S.PALANIVELU

W.A.No.894 of 2002
and
W.A.M.P.No.1730 of 2002

C.Mugesh

.. Appellant

Versus

1. The District Collector
Thuthookkudi
Thuthookkudi District.

2. The Revenue Divisional Officer,
Kovilpatti,
Kovilpatti Taluk.

3. The Tahsildar,
Ottapidaram
Thuthookkudi District.

.. Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court dated 07.12.2001 made in W.P.No.23252 of 2001 to issue a writ of Certiorari calling for the records relating to the impugned order dated 7.12.2000 Ref.ROC No.C5/6894/2000 passed by the 1st respondent holding that the petitioner is not eligible for the OBC certificate and that departmental proceedings should be initiated against the petitioner and quash the same.

For Appellant : No appearance
For Respondents : Mr.K.Balakrishnan

JUDGMENT

(Judgment of the Court was delivered by
Elipe Dharma Rao.J.,)

The writ appeal is directed against the order of the learned Single Judge dated 07.12.2001 made in W.P.No.23252 of 2001, wherein the learned Single Judge dismissed the writ petition as it was not maintainable.

2. The brief facts in a nutshell are as follows:

The appellant was appointed as a Skin Diver by an order dated 04.11.1999 in the Central Marine Fisheries Research Institute and in pursuance of which the appellant joined duty on 08.11.1999 and was working as such. While that being so, the Revenue Divisional Officer, Kovilpatti issued a letter dated 14.06.2000 to appear before him for certain clarifications regarding the OBC certificate dated 17.09.1999, on the basis of complaints received by Revenue Divisional Officer. A notice was issued to him on 14.06.2000. After receipt of the said notice, the appellant approached the Revenue Divisional Officer, Kovilpatti and produced the certificate issued by the Special Tahsildar dated 01.10.1999 confirming that his name had been deleted from the ration card at the instance of his father and he is living separately and also produced documents to show that he was eligible for OBC certificate as per the rules and regulations. After the said enquiry, there was no notice whatsoever relating to his OBC Certificate and he continued to work. Unfortunately an order of termination terminating his service from the said institute was passed on 30.01.2001, on the ground that the 3rd respondent herein had cancelled the OBC Certificate issued to him with a direction to the 1st respondent to initiate departmental action against him. Only after receipt of the termination order, the appellant came to know that the 3rd respondent had cancelled his OBC Certificate without giving any opportunity of being heard or issuing any show cause notice. When the officers of the respondent were approached to have the copy of the proceedings of the 1st respondent and also the 3rd respondent in cancelling the OBC Certificate, they refused to furnish any of the facts relating to the alleged proceedings of the respondents.

3. Subsequently, W.P.No.2900 of 2001 was filed seeking a direction to furnish copy of the proceedings passed by the respondent therein cancelling the OBC Certificate, which was allowed by directing the respondent to furnish the copy of the final order if any passed cancelling his OBC Certificate, within a period of one month from the date of receipt of a copy of the said order. In the meantime, the appellant filed O.A.No.226 of 2001 before the Central Administrative Tribunal, challenging the order passed by his employer on the basis of the order of cancellation of his OBC Certificate, in which his employer has filed a copy of the order dated 07.12.2000 passed by the first respondent/District Collector addressed to the employer, stating that the appellant is not eligible for OBC Certificate and directing the employer to initiate departmental action against the appellant.

4. Challenging the said order dated 07.12.2000, the present W.P.No.23252 of 2001 was preferred by the appellant, wherein the learned Single Judge has dismissed the writ petition and observed as follows:-

not received any copy of the said order of the District Collector. I am unable to appreciate the stand of the counsel that in spite of the orders passed by this court, the petitioner was not able to get a copy of the order of the District Collector. The only course the petitioner should have done is to enforce the order of this Court passed in the earlier writ petition. Without doing so, he has taken a different route of challenging the communication of the District Collector addressed to the Senior Administrative Officer, informing the fact of cancellation of his community certificate. As per the directions of this Court in W.P.No.2900 of 2001 dated 15.2.2001 he should have been furnished with the copy by 25.03.2001. The order of the District Collector could have given reasons for cancellation and as against which he has a right of appeal to the State Level Committee. I am therefore of the view that the writ petition is not maintainable and is filed only to drag on the proceedings. There is no merit in the writ petition. The writ petition is dismissed."

5. The appellant challenging the said order passed in W.P.No.23252 of 2001 has come forward with the present writ appeal on the ground that the learned Single Judge has erred in not considering the fact that the appellant was not given any opportunity by the District Collector before passing the order dated 07.12.2000 and moreover the report of the Revenue Divisional Officer has also not been furnished to him; that there is no necessity for him to file separate contempt petition for the purpose of enforcing the order dated 15.02.2001 in W.P.No.2900 of 2001 and obtaining a copy of the order passed by the District Collector, when the appellant has already obtained a copy of the same from the typed set of papers filed by the respondent in O.A.No.226 of 2001 before the Central Administrative Tribunal.

6. We have heard the submission of the learned counsel for the respondents and perused the materials available on record.

7. Considering the facts and circumstances of the case, we are of the considered view that already the order impugned in the writ petition was not addressed to the petitioner and on the other hand it is the intimation to the employer of the petitioner with regard to the cancellation of the community certificate issued by the Tahsildar and to take necessary

departmental action. Therefore, the findings of the learned Single Judge holding that the writ petition is not maintainable is in order and therefore we see no reason to interfere with the order passed by the learned Single Judge. The writ appeal is dismissed. If departmental action is initiated pursuant to the above said order, the appellant is entitled to agitate the same in appropriate proceedings. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The District Collector
Thuthookkudi
Thuthookkudi District.
2. The Revenue Divisional Officer,
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Kovilpatti Taluk.
3. The Tahsildar,
Ottapidaram
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+1cc to Govt. Pleader Sr 43543

SSV (CO)
km/24.7.

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